

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
NEW ENGLAND CARPENTERS )  
HEALTH BENEFITS FUND; PIRELLI )  
ARMSTRONG RETIREE )  
MEDICAL BENEFITS TRUST; )  
TEAMSTERS HEALTH & WELFARE )  
FUND OF PHILADELPHIA AND )  
VICINITY; and PHILADELPHIA )  
FEDERATION OF TEACHERS HEALTH )  
AND WELFARE FUND, )  
Plaintiffs, ) Civil Action No. 1:05-CV-11148-PBS  
v. )  
FIRST DATABANK, INC., a Missouri )  
Corporation; and McKESSON )  
CORPORATION, a Delaware Corporation, )  
Defendants )  
\_\_\_\_\_

**NOTICE OF FILING [PROPOSED] ORDER GRANTING PRELIMINARY  
APPROVAL OF THE FIRST DATABANK, INC. SETTLEMENT, CERTIFYING  
CLASS FOR PURPOSES OF SETTLEMENT ONLY, DIRECTING NOTICE TO  
THE CLASS AND SCHEDULING A FAIRNESS HEARING**

Plaintiffs hereby submit for the Court's convenience a revised version of the [Proposed] Order Granting Preliminary Approval of the First DataBank, Inc. Settlement Certifying Class For Purposes of Settlement Only, Directing Notice to the Class and Scheduling a Fairness Hearing. The proposed order is attached hereto as Exhibit A.

The proposed order incorporates the date recently set by the Court for a Fairness Hearing as well as the date for submissions of proposed forms of notice and a notice plan to the Court.

DATED: July 9, 2008

By /s/ Thomas M. Sobol

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorneys of record for each other party through the Court's electronic filing service on July 9, 2008.

/s/Thomas M. Sobol

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**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF THE  
FIRST DATABANK, INC. SETTLEMENT, CERTIFYING CLASS FOR  
PURPOSES OF SETTLEMENT ONLY, DIRECTING NOTICE TO THE CLASS  
AND SCHEDULING A FAIRNESS HEARING**

WHEREAS, this matter has come before the Court pursuant to a Joint Motion for Preliminary Approval of Proposed Amended and Restated Settlement and Approval of Form and Manner of Notice (the "Motion"); and

WHEREAS, the Court finds that it has jurisdiction over these actions and each of the parties for purposes of settlement pursuant and that venue is proper in this district;

WHEREAS, this Court has conducted prior hearings with regard to a proposed settlement between Class Plaintiffs and First DataBank, Inc., has previously certified the settlement class, and has previously refused to approve the settlement without changes made to its terms; and

WHEREAS, Class Plaintiffs and First DataBank, Inc. have filed an Amended and Restated Settlement Agreement and this Court has conducted a preliminary approval hearing on January 22, 2008 and is otherwise fully advised in the premises and on considering the record of these proceedings, the representations, argument, and recommendation of counsel for the moving parties, and the requirements of law:

**IT IS HEREBY ORDERED THAT:**

**I.     Preliminary Approval of the Amended and Restated Settlement Agreement**

The terms of the Amended and Restated Settlement Agreement and Release between plaintiffs and defendant First DataBank, Inc. ("FDB"), originally dated August 3, 2006 and subsequently amended, including all exhibits thereto (the "Proposed Settlement Agreement" or "Proposed Settlement" annexed hereto as Exhibit A) are preliminarily approved, subject to further consideration thereof at the Fairness Hearing provided for below. Unless otherwise provided herein, the terms defined in the Proposed Settlement Agreement shall have the same meaning in this Order. The Proposed Settlement was entered into at arms-length by experienced counsel and only after extensive arms-length negotiations lasting many months. The Proposed Settlement is not the result of collusion. The Proposed Settlement bears a probable, reasonable relationship to the claims alleged by plaintiffs and the litigation risks of plaintiffs as well as FDB. The Proposed Settlement is sufficiently within the range of reasonableness so that notice of the Proposed Settlement should be given as provided by this Order.

**II. Approval of Joint Notice Program**

The Court directs that further Notice be provided to the Class. Subject to submission and approval of the precise forms of Notice and the Notice Plan, the Court approves a joint notice program involving this settlement, the settlement with Medispan in a parallel lawsuit pending before this Court, and the notice to be provided to the litigation class in connection with the claims against McKesson Corporation. The Court directs that the forms of Notice and Joint Notice Plan be submitted to the Court by July 17, 2008. This submission shall also include a proposed order setting forth the relevant dates related to notice for submission of exclusions and/or objections by members of the class.

**III. Fairness Hearing**

The Court will conduct a Fairness Hearing to consider the First DataBank Settlement on December 17, 2008 at 3 p.m..

DATED: Boston, Massachusetts  
This \_\_\_\_ day of July, 2008

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Patti B. Saris, Judge  
United States District Court